

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 256153

70

ORIGIN OES-06

INFO OCT-01 EA-07 ISO-00 L-03 ACDA-07 AGRE-00 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 COME-00 DLOS-06

DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00

H-02 INR-07 INT-05 IO-13 JUSE-00 NSAE-00 NSC-05

NSF-01 OMB-01 PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06

SAL-01 FEA-01 AF-08 ARA-06 EUR-12 NEA-10 /153 R

DRAFTED BY OES/OFA/FA:JCPRICE:SMD

APPROVED BY OES/OFA/FA:LMNAKATSU

L/OES - JBAILLY

EA/K - PMAYHEW

----- 087301

P 152058Z OCT 76

FM SECSTATE WASHDC

TO AMEMBASSY SEOUL PRIORITY

INFO AMEMBASSY TOKYO PRIORITY

AMEMBASSY TAIPEI PRIORITY

LIMITED OFFICIAL USE STATE 256153

E.O. 11652: N/A

TAGS: EFIS, JA, PLOS

SUBJECT: US/REPUBLIC OF KOREA (ROK) GOVERNING INTERNATIONAL
FISHERY AGREEMENT (GIFA)

REF: A. STATE 202337 B. STATE 206169

SUMMARY: AS NOTED REFTTEL A, SUBSTANTIVE PROGRESS MADE
TOWARD CONCLUSION OF GIFA WITH ROK DURING DISCUSSIONS HELD
AUGUST 8-13 IN WASHINGTON, D.C. AGREEMENT REACHED ON
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 256153

PREAMBLE AND 13 OF 16 ARTICLES WITH DECISION TAKEN TO

CONTINUE TALKS THROUGH NORMAL DIPLOMATIC CHANNELS. ACCORD-
INGLY, EMBASSY REQUESTED TO MAKE FOLLOWING PRESENTA-
TIONS IN ORDER TO TABLE ADDITIONAL U.S. PROPOSALS
AND FURTHER NARROW REMAINING DIFFERENCES. IT IS HOPED
SMALL NEGOTIATING TEAM HEADED BY L.M. NAKATSU WILL BE
ABLE TO CONCLUDE AGREEMENT DURING OCTOBER 25-28 STAY IN
SEOUL. FOLLOWING POINTS ARE ADDRESSED TO PROPOSED ADDI-
TIONS TO AGREEMENT INITIATED BY THE U.S., ADDITIONAL ISSUES
WHICH HAVE ARISEN IN INTERIM, AND BRACKETED LANGUAGE
CONTAINED IN TEXT OF DRAFT AGREEMENT AS FORWARDED REFTEL B.

1. AT CONCLUSION OF NEGOTIATIONS "IF ANY" AND "NOW" AT
MIDDLE AND END OF ARTICLE IV BRACKETED. ROK PROPOSED
DELETION OF PHRASE "IF ANY" APPARENTLY IN ORDER TO

PROVIDE MORE SPECIFIC ACKNOWLEDGEMENT OF TRADITIONAL
FISHING BY ROK VESSELS. ROK PROPOSAL TO DELETE "NOW"
BASED ON POINT THAT U.S. WOULD NOT EXERCISE SUCH JURIS-
DICTION UNTIL MARCH 1, 1977. AFTER ADDITIONAL REFLECTION,
U.S. HAS CONCLUDED THAT SUCH DELETIONS HAVE NO LEGAL
EFFECT, AND THUS CAN AGREE TO OMISSION OF "IF ANY"
AND "NOW" AS PROPOSED BY ROK. IN MAKING POINT, EMBASSY
SHOULD STRESS U.S. DESIRE TO WORK FOR COMPROMISE IN
AREAS WHERE SOME FLEXIBILITY EXISTS IN U.S. NEGOTIATING
POSITION.

2. FOLLOWING AUGUST ROK GIFA TALKS, U.S. NOTED THAT LANG-
UAGE OF DRAFT GIFA ARTICLE XIII (PORT CALLS) WOULD BE
INAPPROPRIATE IN CASE OF ROK AND OTHER NON-COMMUNIST
NATIONS. ACCORDINGLY, EMBASSY IS REQUESTED TO PROPOSE
DELETION OF ARTICLE XIII, EXPLAINING THAT IT WAS INITIALLY
FORMULATED TO REFLECT SPECIAL NEEDS OF SOVIET AND EAST
EUROPEAN COUNTRIES ONLY, WHICH ARE NOT PERMITTED ACCESS
TO U.S. PORTS EXCEPT THROUGH SPECIAL AGREEMENT WITH U.S.
EMBASSY SHOULD EMPHASIZE THAT NON-COMMUNIST NATIONS ARE,
AS A MATTER OF LONG-STANDING PRACTICE, NOT DENIED ENTRANCE
TO U.S. PORTS FOR PURPOSES OF RESUPPLYING, REFUELING, REST,
ETC. ACCORDINGLY, PRESENT LANGUAGE OF DRAFT ARTICLE
REFERRING TO U.S. INTENTION TO "UNDERTAKE TO AUTHORIZE"
ROK VESSELS "TO ENTER DESIGNATED PORTS" WOULD BE IN-
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 256153

APPROPRIATE AND MISLEADING. IF ROK NEVERTHELESS UNCOM-
FORTABLE WITH DELETION OF PORT CALL ARTICLE, GIFA CON-
CLUDED WITH REPUBLIC OF CHINA (ROC) PROVIDES AN ACCEPT-
ABLE ALTERNATIVE. IN THIS CASE, WHILE DRAFT GIFA ARTICLE
XIII DELETED, SIMPLE STATEMENT OF ROC RIGHTS WITH RESPECT
TO USE OF U.S. PORTS WAS INCLUDED AS AGREED MINUTE.
LANGUAGE AS FOLLOWS:

"THE REPRESENTATIVE OF THE GOVERNMENT OF THE UNITED STATES STATED THAT, SUBJECT TO THE APPLICABLE LAWS AND REGULATIONS OF THE UNITED STATES, FISHING VESSELS OF THE REPUBLIC OF KOREA COULD ENTER UNITED STATES PORTS FOR THE PURPOSE OF OBTAINING SUPPLIES AND SERVICES NORMALLY AVAILABLE IN THOSE PORTS."

3. U.S. DESIRE FOR ADDITION OF TUNA ARTICLE WAS ANNOUNCED TO ROK DURING AUGUST GIFA TALKS AS WELL AS U.S. INTENTION TO PROPOSE SPECIFIC LANGUAGE LATER THROUGH DIPLOMATIC CHANNELS. IN PRESENTING PROPOSED U.S. LANGUAGE, EMBASSY SHOULD EMPHASIZE, AS WAS DONE DURING AUGUST GIFA TALKS, THAT PURPOSE IS NOT TO REGULATE TUNA

FISHERY, (WHICH IS SPECIFICALLY EXCLUDED FROM FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976) BUT TO ENSURE PROVISION OF SCIENTIFIC INFORMATION AND CATCH DATA FOR TUNA AND ASSOCIATED SPECIES. LANGUAGE TO BE OFFERED IS IDENTICAL TO THAT INCLUDED IN COMPLETED ROC GIFA. ARTICLE PROVIDES FOR RECIPROCAL EXCHANGE OF SCIENTIFIC AND TECHNICAL INFORMATION. CLEARER OBLIGATION BY KOREA TO MAKE SUCH DATA AVAILABLE TO U.S. WOULD BE PROVIDED THROUGH ASSOCIATED AGREED MINUTE AS INCORPORATED IN ROC GIFA. LANGUAGE OF ARTICLE AND AGREED MINUTE AS FOLLOWS:
ARTICLE---

--"THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF THE REPUBLIC OF KOREA SHALL COOPERATE IN THE EXCHANGE OF SCIENTIFIC AND TECHNICAL INFORMATION RELATING TO SPECIES OF TUNA OF MUTUAL INTEREST WITH A VIEW TO THE ESTABLISHMENT OF REGIONAL ARRANGEMENTS, INCLUDING APPROPRIATE INTERNATIONAL ORGANIZATIONS, TO ENSURE CONSERVATION OF THE SPECIES. SUCH SCIENTIFIC EXCHANGES SHALL INCLUDE THE REPORTING OF TUNA AND ASSOCIATED CATCHES."
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 256153

AGREED MINUTE---

--"WITH RESPECT TO ARTICLE(BLANK) OF THE AGREEMENT, THE TWO GOVERNMENTS AGREED THAT AT THE OUTSET OF THE AGREEMENT AND UNTIL SUCH TIME AS APPROPRIATE REGIONAL ARRANGEMENTS ARE IN PLACE, THE GOVERNMENT OF THE REPUBLIC OF KOREA WILL, IN ORDER TO ESTABLISH A BASE OF SCIENTIFIC INFORMATION TO FURTHER SUCH ARRANGEMENTS, PROVIDE TO THE GOVERNMENT OF THE UNITED STATES STATISTICS ON TUNA AND RELATED CATCHES OFF THE COASTS OF THE UNITED STATES."

4. ARTICLE ON DATA EXCHANGE ON TUNA FISHERY IS CONSISTENT WITH P.L. 94-265. HOWEVER, LEGAL PROBLEMS MIGHT ARISE ON U.S. SIDE IF SPECIFIC DATA REQUIREMENTS FOR TUNA WERE INCORPORATED IN SCIENTIFIC ANNEX, SINCE ANNEX SPECIFICALLY APPLIES TO "LIVING RESOURCES SUBJECT TO THE

FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES."
ACCORDINGLY, EMBASSY SHOULD PROPOSE THAT SUCH DETAILED
DATA REPORTING REQUIREMENTS AND PROCEDURES BE INCORPORATED
IN AIDE MEMOIRE THAT CAN BE PREPARED AT A LATER DATE FOR
APPROPRIATE EXCHANGE BETWEEN BOTH GOVERNMENTS.

FYI (A) AS GOJ WAS INFORMED DURING AUGUST GIFA TALKS, U.S.
HAS NOT YET DETERMINED HOW BYCATCHES (PRINCIPALLY
BILLFISH) IN TUNA FISHERY WILL BE TREATED. PROBLEM POSED
BY INTERRELATION OF BOTH FISHERIES AND CLEAR INTENT OF
ARTICLE TO EXEMPT ONLY TUNA FROM MANAGEMENT REGIME.
POSSIBILITY EXISTS THAT CONTROLS ON BILLFISH CATCHES MAY
ULTIMATELY BE ADOPTED BY U.S. DESPITE IMPACT ON TUNA
FISHERY. NEGOTIATING TEAM INTENDS TO RAISE ENTIRE ISSUE
DURING SEOUL DISCUSSIONS OCTOBER 25-27.

5. EMBASSY SHOULD STRESS THAT U.S. COMPROMISE ON
BRACKETED ARTICLE X OF DRAFT GIFA IS NOT POSSIBLE.
EMBASSY SHOULD EMPHASIZE CRITICAL IMPORTANCE OF SUCH
EXPLICIT RECOGNITION OF U.S. ENFORCEMENT AUTHORITY
WITHIN FISHERY CONSERVATION ZONE, CREATING AN ALMOST TOTAL
ABSENCE OF FLEXIBILITY IN U.S. NEGOTIATING POSITION IN THIS
AREA. EMBASSY SHOULD REITERATE THAT SUBSTANTIVE MODIFICA-
TION OF DRAFT LANGUAGE WOULD BE CLEARLY INCONSISTENT WITH
P.L. 94-265 AND STAND NO CHANCE OF RECEIVING THE REQUIRED
CONGRESSIONAL APPROVAL.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 05 STATE 256153

6. EMBASSY SHOULD ALSO STRESS THAT COMPROMISE ON
BRACKETED ARTICLE VIII(5) IS NOT POSSIBLE. EMBASSY SHOULD
STRESS THAT ROK VESSELS WOULD HAVE FULL ACCESS TO U.S.
JUDICIAL SYSTEM IN CASES OF DAMAGE DUE TO GEAR CONFLICT,
BUT THAT TO REDRAFT ARTICLE VIII(5) AS EXPLICIT RECIPROCAL
OBLIGATION WOULD CREATE DIFFICULT LEGAL AND POLITICAL
PROBLEMS FOR U.S. FURTHERMORE, EMBASSY SHOULD STATE THAT
UPON FURTHER STUDY SOME MINOR CHANGES IN DRAFT LANGUAGE ARE
NOW FELT NECESSARY FOR PURPOSES OF CLARITY. LANGUAGE AS
FOLLOWS:

ARTICLE VIII(5)---

--"ALL NECESSARY MEASURES ARE TAKEN TO ENSURE THE PROMPT
AND ADEQUATE COMPENSATION OF UNITED STATES CITIZENS FOR
ANY LOSS OF, OR DAMAGE TO, THEIR FISHING VESSELS, FISHING
GEAR OR CATCH THAT IS CAUSED BY ANY FISHING VESSEL OF
THE REPUBLIC OF KOREA AS DETERMINED BY APPLICABLE U.S.
PROCEDURES."

7. EMBASSY SHOULD NOTE THAT, AS DISCUSSED DURING AUGUST
GIFA TALKS, U.S. WILL BE PROPOSING THAT TERMINATION OF
EXISTING U.S./ROK FISHERY AGREEMENT ACCOMPANY CONCLUSION OF

GIFA. (AGREEMENT WOULD OTHERWISE EXPIRE NOVEMBER 23, 1977.) EMBASSY SHOULD NOTE THAT U.S. WILL LIKELY PROPOSE THAT THIS BE EFFECTED THROUGH AN EXCHANGE OF NOTES, BUT THAT PROPOSAL OF PRECISE PROCEDURE AND LANGUAGE WILL HAVE TO AWAIT U.S./KOREA TALKS SCHEDULED FOR OCTOBER 25-27 IN SEOUL.

FYI (B) U.S. IS OBTAINING REQUIRED STANDARD CIRCULAR 175 AUTHORITY TO TERMINATE EXISTING AGREEMENT. END FYI (B) HABIB

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FISHING AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 15 OCT 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE256153
Document Source: CORE
Document Unique ID: 00
Drafter: JCPRICE:SMD
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760388-1086
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761046/aaaabnnf.tel
Line Count: 232
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN OES
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 202337
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 27 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27 MAY 2004 by ShawDG>; APPROVED <16 SEP 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US/REPUBLIC OF KOREA (ROK) GOVERNING INTERNATIONAL FISHERY AGREEMENT (GIFA)
TAGS: EFIS, PLOS, JA, US
To: SEOUL
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006